

Mark Brnovich  
Attorney General  
Firm State Bar No. 14000

John S. Johnson (016575)  
Division Chief Counsel  
Dawn R. Williams (020730)  
Appeals Unit Chief Counsel  
1275 West Washington  
Phoenix, Arizona 85007-2997  
Telephone: (602) 542-9948  
Fax: (602) 364-0055  
e-mail: John.johnson@azag.gov

Attorneys for Gregory McKay in his  
official capacity as Director of the  
Arizona Department of Child Safety

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

A.D. and C. by CAROL COUGHLIN CARTER,  
their next friend; S.H. and J.H., a married  
couple; M.C. and K.C., a married couple; for  
themselves and on behalf of a class of similarly  
situated individuals,

Plaintiffs,

v.

KEVIN WASHBURN, in his official capacity as  
Assistant Secretary of BUREAU OF INDIAN  
AFFAIRS; SALLY JEWELL, in her official  
capacity as Secretary of Interior, U.S.  
DEPARTMENT OF THE INTERIOR; AND  
GREGORY MCKAY, in his official capacity as  
Director of the ARIZONA DEPARTMENT OF  
CHILD SAFETY,

Defendants.

No. 2:15-cv-01259-PHX-NVW

**STATE DEFENDANT'S  
ATTACHMENT 1**

**Williams, Dawn**

---

**From:** Pellegrino, Heather  
**Sent:** Wednesday, October 14, 2015 4:05 PM  
**To:** Williams, Dawn  
**Subject:** FW: Carter v. Washburn Director McKay's Motion to Dismiss

---

**From:** Adi Dynar [<mailto:adynar@goldwaterinstitute.org>]  
**Sent:** Wednesday, October 14, 2015 4:04 PM  
**To:** Pellegrino, Heather; Valenzuela, Michael; Johnson, John  
**Cc:** Clint Bolick  
**Subject:** Carter v. Washburn Director McKay's Motion to Dismiss

Heather, Michael,

This email is a follow-up to our phone conference today. I discussed internally, and based on our discussion, we think that if there is going to be any stipulation limiting the counts against Director McKay, that stipulation needs to be drafted by the state. We are happy to take a look at your draft stipulation and get back to you in short order. If your position is going to be that the state's motion to dismiss Count 3 should be granted because this is not a racial classification but a political affiliation issue, then the state will need to address Count 5, and potentially other counts as well, including conceding the commandeering issue. Since the contours of a stipulation, if there's going to be one, are necessarily based on the state's litigation position, it will have to be your draft that we review.

Also, to clarify, in our prior discussions, Plaintiffs have consistently maintained that Count 3 is primarily against Director McKay; the other counts are primarily if not exclusively directed toward the federal government, but your litigation position regarding Count 3 could make them relevant to you.

Sincerely,  
Adi

---

**Adi Dynar**  
Attorney  
[Goldwater Institute](http://GoldwaterInstitute.org) | 602-462-5000

“The Goldwater Institute is simply in the liberty business, and there's no institution in the country that performs that business better.” – George Will

NOTICE: This message is confidential. If you have received this message in error, please immediately notify the sender and delete it. Thank you.